

Planning Committee

6 May 2026

Report on Appeal Decisions 1 January to 31 March 2026

Report from: Gillian James, Assistant Director, Culture & Community –
Regeneration Culture Environment and Transformation

Author: Dave Harris, Chief Planning Officer

Summary

This report informs Members of appeal decisions. The summary of appeal decisions for those allowed or where decisions were made by the Committee contrary to Officer recommendation is listed in Appendix A.

A total of ten appeal decisions were received during the period, all of which were delegated decisions and one related to enforcement. Three of these appeals were allowed and seven were dismissed.

A summary of appeal decisions is set out in Appendix A.

A report of appeal costs is set out in Appendix B.

1. Recommendation

1.1. The Committee is asked to consider and note this report which is submitted to assist the Committee in monitoring appeal decisions.

2. Budget and policy framework

2.1. This is a matter for the Planning Committee.

3. Background

3.1. When a planning application is refused, the applicant has the right to appeal. The timescale for lodging an appeal varies depending on whether the application relates to a householder matter, non-householder matter or whether the proposal has also been the subject of an Enforcement Notice.

3.2. Appeals can also be lodged against conditions imposed on a planning approval and against the non-determination of an application that has passed the statutory time period for determination.

3.3. Where the Council has taken enforcement action through the serving of an Enforcement Notice then an appeal can be lodged in relation to that. An

appeal cannot be lodged though in relation to a breach of a condition notice on the basis, primarily, that if the individual did not like the condition, then they could have appealed against that at the time it was originally imposed.

- 3.4. The appeals are determined by Inspectors appointed by the Secretary of State and administered by the Planning Inspectorate, which informs Medway Council of the Inspector's decision. In a limited number of cases appeals are determined by the Secretary of State after considering an Inspectors report.
- 3.5. In accordance with the decision made at the Planning Committee on Wednesday 5 July 2017, Appendix A of this report, will not summarise all appeal decisions but only either those which have been allowed on appeal or where Members made a contrary decision to the officers' recommendation.

4. Advice and analysis

- 4.1. This report is submitted for information and enables members to monitor appeal decisions.

5. Risk management

- 5.1. As part of the reform of the planning system, the Government are focusing on planning committee decisions, with the Planning Inspectorate being asked to start reporting to Government about cases where a successful appeal is made against a planning committee decision contrary to the officer recommendation. The overturning of a recommendation made by a professional officer should be rare and infrequent. The Government have reminded the Inspectorate that where it cannot find reasonable grounds for the committee having overturned the officer's recommendation, it should consider awarding costs to the appellant.
- 5.2. Monitoring of all appeal decisions is undertaken to ensure that the Council's decisions are being defended thoroughly and that appropriate and defensible decisions are being made by Committee and under delegated powers. The lack of any monitoring could lead to more decisions going contrary to the Council's decision possibly resulting in poorer quality development and also costs being awarded against the Council.
- 5.3. For quality of decision-making assessment, any authority that has more than 10% of either major or non-major applications overturned at appeal over a specified two year period is at risk of designation. The assessment period for quality of decision-making continues to be 24 months as it is considered the number of relevant cases is lower than for the speed of decision-making and if measured over 12 months would represent too few cases to provide an accurate measure of performance.

The most up-to-date Government data, which is for the 24 months to the end of March 2025, shows the number of decisions overturned at appeal for major applications is 1.1% and 0.7% for non-major applications.

6. Consultation

6.1. Not applicable.

7. Climate change implications

7.1. All planning applications for new development must have a section on Climate Change and Energy Efficiency.

8. Financial implications

8.1. An appeal may be determined after a Public Inquiry, an Informal Hearing or by exchange of written representations. It is possible for cost applications to be made either by the appellants against the Council or vice versa if it is alleged that either has acted in an unreasonable way. Powers have now been introduced for Inspectors to award costs if they feel either party has acted unreasonably irrespective of whether either party has made an application for costs.

8.2. It is possible for decisions made by Inspectors on appeal to be challenged through the courts but only if it is considered that an Inspector has erred in law, for instance by not considering a relevant issue or not following the correct procedure. A decision cannot be challenged just because an Authority or an aggrieved party does not agree with it. A successful challenge would result in the Inspectorate having to re-consider the appeal and to make the decision again in the correct fashion, e.g. by taking into account the relevant factor or following the correct procedure. This may lead ultimately to the same decision being made.

8.3. It is possible for Planning Inspectors to make a “split” decision, where they allow one part of an appeal but not another. This is not possible for the Council when it makes its original decision on the planning application other than for an advert application.

Lead officer contact

Dave Harris, Chief Planning Officer
Telephone: 01634 331575
Email: dave.harris@medway.gov.uk.

Appendices

- A) Summary of appeal decisions
- B) Report on appeal costs

Background papers

Appeal decisions received from the Planning Inspectorate for the period 1 January to 31 March 2026.

Gov.uk statistical data sets Table P152 and Table P154

Appeal Decision Summary

Appeals decided between 01/01/2026 and 31/03/2026

Appeal Decision MC/25/1566

Site and Proposal Overview

- **Location:** Ratcliffe House, Ratcliffe Highway, St Mary Hoo, Rochester ME3 8RJ
 - **Appellant:** Mrs Carol Ellis
 - **Proposal:** Garage conversion, part two storey and single storey extensions, to Granny Annex, and Garden Room, to be used ancillary to the main house
 - **The appeal was submitted due to Medway Council's failure to determine the planning application within the prescribed period**
 - **Decision Date:** 4 February 2026
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Appeal Outcome

1. **Appeal Allowed with conditions.**
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Inspector's Reasoning

The Inspector identified two principal issues:

1. Whether the proposal would create a new independent residential dwelling.
2. The impact of the proposal on the character and appearance of the countryside,

Independent Dwelling Assessment

The Council considered that the scale and self-contained nature of the accommodation meant it could function as an independent dwelling, contrary to countryside planning policies.

The Inspector rejected this conclusion, drawing on established case law which confirms that the presence of day-to-day living facilities does not automatically create a separate planning unit. Whether a development forms an independent dwelling is a matter of fact and degree. Key factors supporting the Inspector's conclusion:

- The annex would share the garden, driveway, and parking with the main dwelling;
- No physical subdivision of the site was proposed or implied;
- The annex would remain clearly subordinate in scale, height, bulk and mass compared with the main house;

- The short distance between buildings and shared access would encourage a functional and familial relationship;
- The appellant confirmed the intention for ancillary use only and accepted that separate occupation would require new planning permission; The Inspector concluded that the proposal would not create a new independent residential dwelling and, therefore, should be assessed on an ancillary use basis.

Character and Appearance of the Countryside

The site lies in open countryside, where Policy BNE25 of the Medway Local Plan 2003 applies. This allows for modest extensions or annexes to dwellings, provided countryside character is preserved. The supporting text references a 25% guideline, but stresses that assessments must be made on their individual merits.

The Inspector disagreed with the Council's approach of comparing the proposal solely to the existing garage. Instead, they found it more appropriate to assess the development in relation to the main dwelling, as the garage is an incidental structure forming part of a single residential planning unit.

Although no precise floorspace calculations were provided, from both the submitted plans and the site visit the Inspector was satisfied that:

- The extension would appear modest in the context of the main house;
- The single-storey form would limit visual impact;
- The design would be subordinate and sympathetic to the host dwelling;
- The surrounding area already contains large detached dwellings in spacious plots, with outbuildings and generous extensions not uncommon.

While spacing between buildings would reduce, the site would retain a spacious, semi-rural character, and openness at upper levels would be preserved.

The Inspector concluded that the proposal was found to preserve the character and appearance of the countryside, complying with Policies BNE1 and BNE25 of the Local Plan.

Other Planning Matters

Although the Council referenced Policy BNE2 (amenity protection), it identified no unacceptable impacts in terms of:

- Privacy;
- Daylight or sunlight;
- Noise;
- Activity levels;
- Traffic.

The Inspector agreed with this assessment and found no material harm to neighbouring or host property amenities.

Conditions

Planning permission was granted subject to three conditions:

1. Development must be carried out in accordance with the approved drawings;
2. Development must commence within three years;
3. External materials must match those of the existing building.

Notably, the Inspector did not impose a condition restricting ancillary use, concluding that occupation as a separate dwelling would in any event require its own planning permission, making such a condition unnecessary.

Final Remarks

The Inspector concluded that:

- The proposal accords with the development plan;
 - No material considerations indicate permission should be withheld;
 - The appeal should, therefore, be allowed.
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Appeal Decision MC/25/2045

Site and Proposal Overview

- **Location:** 2 Tudor Farm Cottages, Stoke Road, Hoo St Werburgh, Rochester ME3 9SF
 - **Appellant:** Ms and Mr E Cordner and C Bishop
 - **Proposal:** Alterations and extensions to include the demolition of the existing detached garage and rear single-storey extension; construction of single and two storey extensions at the side and rear to provide additional habitable accommodation; construction of a detached garage; access driveway and garden paths; construction of 3 outbuildings
 - **Decision** – Delegated
 - **Decision Date:** 8 December 2025
 - **Appeal Decision:** 30 March 2026
-

Appeal Outcome

- **Appeal Allowed with Conditions.**
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Inspector's Reasoning

The Inspector identified 2 principle issues

1. The effect of the proposal on the character and appearance of the dwelling and the surrounding area ;

2. The need for the proposal, having regard to the personal circumstances of an occupier of the dwelling.

Character and Appearance

Site Context

- The appeal property is a two-storey semi-detached dwelling on the edge of a small cluster of dwellings and farm buildings within open countryside;
- The site is highly visible from Stoke Road, the access track serving the dwellings, and a nearby public right of way (PRoW);
- Adjacent dwellings include significantly larger properties, and the attached dwelling (No. 1) has previously been extended at ground-floor level.

Previous Appeal

A larger extension scheme was dismissed at appeal in 2025. The current proposal was found to be reduced in scale, including:

- A narrower two-storey side extension;
- Alterations to the roof design to a dual-hipped form, reflecting the ground floor extension.

Policy Assessment

- Policy BNE25 supports modest extensions in the countryside, with supporting text referring to a nominal 25% increase in floorspace;
- The Inspector found that the proposal would exceed this guideline by some margin and could not reasonably be described as “modest” relative to the host dwelling.

Visual Impact

- The extension would appear dominant, particularly due to its width exceeding that of the original dwelling;
- There would be localised visual harm, especially in closer views from Stoke Road and the PRoW;
- In longer-distance views, the impact would be mitigated by distance, surrounding buildings, and landscaping context.

The Inspector concluded that the proposal would result in a modest degree of harm to the character and appearance of the host dwelling, and localised public views

Need and Personal Circumstances

The Inspector gave significant weight to the personal circumstances of an occupier, explicitly considering the Public Sector Equality Duty under section 149 of the Equality Act 2010, including disability as a protected characteristic.

Identified shortcomings of the existing dwelling included:

- A steep, winding staircase;
- Poor circulation space;

- Lack of an upstairs bathroom;
- Lack of independent access to bedrooms.

The proposed extensions would:

- Improve circulation space;
- Provide a safer, shallower staircase;
- Enable step-free access where possible;
- Allow independent access to bedrooms.

The Inspector found that the scheme would meet these needs within a more proportionate envelope than the previously dismissed proposal, and that this need carried substantial weight in the decision-making process.

Other Matters

The Inspector also considered several additional issues:

- Residential amenity: No unacceptable impact on daylight or sunlight to neighbouring properties was identified;
- Parking: The Council was satisfied with parking provision, and the Inspector agreed;
- Drainage: No objection from Southern Water and no evidence of drainage constraints;
- Potential for separate dwelling: No substantive evidence that the extension would be used as an independent dwelling; the proposal was assessed as an extension only.

Final Remarks

The Inspector acknowledged a clear conflict with the development plan due to the extension not being modest, and the modest harm identified to character and appearance. However, in the overall planning balance, this harm was found to be outweighed by the demonstrable need arising from the personal circumstances of an occupier of the dwelling.

Although the proposal conflicted with the adopted development plan, the Inspector concluded that material considerations justified granting permission. The appeal was, therefore, allowed, and planning permission granted subject to conditions.

Appeal Decision ENF/22/0151

Site and Proposal Overview

- **Location:** 382 Canterbury Street, Gillingham, Kent ME7 5LD
- **Appellant:** Mr Tanvir Singh Boora
- **Enforcement notice** relating to the construction of a second floor rear extension, including a dormer and flat roof element. Intended to facilitate the conversion of the loft/roof space into habitable accommodation
- **Enforcement Notice issued:** 11 January 2024
- **Appeal Decision:** 19 March 2026

Appeal Outcome

- **The appeal was allowed on Ground (a) and the enforcement notice was quashed in full. Planning permission was granted.**
-

Background to the Appeal

The enforcement notice required the appellant to:

1. Demolish the entire second-floor rear extension (including the dormer and flat roof);
2. Reinstall the roof of the rear projection and the main roof eaves to their original form;
3. Remove all resulting debris from the site.

within a three-month compliance period.

The appeal was pursued on grounds (a), (f), and (g):

- Ground (a): That planning permission should be granted for the development;
 - Ground (f): That the steps required by the notice exceeded what was necessary;
 - Ground (g): That the compliance period was unreasonable.
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Inspector's Reasoning

The Inspector identified the sole main issue as the effect of the development on the host dwelling and the street scene.

No other planning harms (such as neighbour amenity, highways, or residential impacts) were identified or considered decisive in this case.

Character of the Area

- No. 382 is a terraced property within a dense residential street characterised by rows of similarly designed dwellings;
- The extension gives the impression of a three-storey flat-roofed property, with an overhang that draws the eye and creates a more prominent appearance.

Visual Impact and Design

While acknowledging the Council's concern about the development appearing top-heavy, the Inspector placed significant weight on the wider context:

- Flat-roof dormer-style extensions are not uncommon within the surrounding area;
- The materials and external finishes were considered sympathetic and reflective of the host dwelling;
- Fenestration detailing was found to be appropriate and visually consistent.

Crucially, the Inspector concluded that:

- The extension is not over-dominant in scale;
- It does not cause material harm to the architectural character of the dwelling or the wider street scene.

Policy and Planning Balance

The Inspector found the development to be compliant with:

- Policy BNE1 of the Medway Local Plan, and
- Paragraphs 131 and 135 of the National Planning Policy Framework (2024), which relate to good design and the importance of visual compatibility and context.

The Council did not suggest any planning conditions, and the Inspector agreed that no conditions were necessary.

Final Remarks

The Inspector concluded that the development did not result in material visual harm and represented an acceptable form of development within its context. As a result, the Council's enforcement action was found to be unjustified, and the appellant was granted retrospective permission for the works already carried out.

REPORT ON APPEALS COSTS

Appeals 2019/2020

Ref.	Site	Proposal	Decision type	Costs	Comment
MC/18/2739	260 Wilson Avenue, Rochester	Construction of extension to rear, dormer window to side (demolition of part existing rear extension, conservatory and garage).	Delegated	Against	25/07/2019: £12,938 costs paid High Court judgement on JR
MC/18/2739	260 Wilson Avenue, Rochester	Construction of extension to rear, dormer window to side (demolition of part existing rear extension, conservatory and garage).	Delegated	Against	24/09/2019: £1,871 costs paid Court order
MC/18/3016	Coombe Lodge, Coombe Farm Lane, St Mary Hoo	Demolition of stable + 2 bed holiday let.	Delegated	Partial against	Costs covering work on PROW issue.
MC/18/1818	Plot 1, Medway City Estate	Retail development + drive through restaurant.	Committee	Against	January 2020 costs paid £48,625.02 + VAT.

Appeals 2021/2022

Ref.	Site	Proposal	Decision type	Costs	Comment
ENF/15/0260	Rear of 48 – 52 Napier Road, Gillingham	Enforcement notice re 6 self contained flats without planning permission.	Enforcement notice upheld for flats A, B and C but not for flats D, E and F 46 Napier Rd	Partial for	Applicant demonstrated unreasonable behaviour resulting in unnecessary and wasted expense re the adjournment of the 11/09/2019 inquiry. £2,000 received.
ENF/15/0244	Land at 20 – 22 Hillside Avenue, Strood	Enforcement notice re 10 self contained flats without planning permission.	Enforcement notice upheld but deadlines extended	Partial for	Inspector found unreasonable behaviour resulting in unnecessary or wasted expense. £3,106.99 received.
MC/19/2552	14 Duncan Road, Gillingham	Part retrospective construction of part single storey rear extension and loft conversion without complying with a condition attached to MC/18/2676.	Allowed	Against	Council refused removal of condition 4 without providing evidence to demonstrate the character of the area would be affected and why it considers HMOs to be of particular concern in the area. Costs paid £1,250.

MC/19/0171	Land east of Mierscourt Road, Rainham	Outline application for 50 dwellings – resubmission.	Dismissed	For	Unilateral Undertaking not acceptable and unreasonable behaviour as described in PPG. Costs received £8,749.
MC/20/0028	Hempstead Valley Shopping Centre	Erection of a drive through restaurant, reconfiguration of car park and closure of multi storey car park exit ramp.	Allowed	Partial against	Committee overturn. Unreasonable behaviour resulted in unnecessary or wasted expense due to insufficient evidence to support refusal on design and impact on highways but no objection to scheme from Highways Authority. Off site littering: no such objection raised in another recent approval for a takeaway, therefore, inconsistent. Agreed costs £1,250 and paid.
MC/19/0036	87 Rock Avenue, Gillingham	Change of use from 6 bed HMO to 7 bed HMO.	Allowed	Against	Insufficient evidence to substantiate reason for refusal. Costs paid to applicant £500 and to

					consultant £750 + VAT.
MC/19/1566	Land off Pump Lane	1,250 dwellings, school, extra care facility, care home.	Dismissed	Partial for	Costs incurred in producing impact appraisal addendums, during adjournment, for additional sitting day and making costs application. £79,500 received.

Appeals 2023/2024

MC/21/2361	Patman's Wharf, Upnor Road	Change of use from boat storage yard to residential, construction of six 3-bed terraced houses and two 2-bed flats.	Allowed	Partial against	Costs cover the expense incurred by the applicant in attending the reconvened hearing due to the late submission of council's evidence. Costs paid to applicant. £4,740 + VAT.
ENF/19/0025	1 Dean Road, Strood	Appeal against an enforcement notice issued on 6/4/2021 requiring applicants to a. Demolish the unauthorised single storey dwelling b. Remove all debris +	Allowed and enforcement notice is squashed	Against	Council acted unreasonably in issuing enforcement notice which put applicants to unnecessary expense in making appeals against the notice, preparing

		associated materials from the property within 2 calendar months.			statements an evidence that specifically support their appeals and response to the reasons for issuing the notice and making the costs applications. Costs paid £16,032 + VAT.
MC/22/1002	153 Fairview Avenue	Change of use from butcher's shop to takeaway pizza shop.	Allowed	Against	The applicant incurred unnecessary or wasted expense in the appeal process. Costs requested £3,500.
MC/22/1867	Land east of Rainham Pumping Station and North of Lower Rainham Road	Construction of 2 detached residential properties with associated parking, access and landscaping works.	Allowed	Against	The Council's behaviour was unreasonable and the applicant was compelled to bear the expense of an appeal. Full costs awarded. Costs paid £7,550 + VAT.

Appeals 2024/2025

MC/23/0970	Land rear of 9-15 Railway Street, Gillingham	Construction of a pair of semi-detached mews Houses.	Allowed	Against	The Council's behaviour was unreasonable and caused the applicant to incur unnecessary or wasted expense. Full costs awarded.
ENF/21/0327	Land at Factory Farm, Wouldham Road, Rochester	Material change of use of land to a mixed use for importation, deposit, processing and transfer of waste, stationing of shipping containers for storage, vehicle breaking and repair, and a residential caravan site including the construction of buildings, fencing, gates and hard surfacing.	Upheld subject to variation of periods for compliance	Partially for	Cost of the appeal proceeding incurred in preparing the appeal statement and attending the site visit.

Appeals 2025/2026

MC/24/2564	211 High Street, Chatham	Change of use to arcade incorporating bingo (sui generis).	Allowed with conditions	Partially against	The Council's behaviour caused the applicant to incur unnecessary or wasted expense. £4,945 + VAT paid.
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ENF/21/0237	89 Bryant Street, Strood	Without planning permission, the conversion and change of use of a single storey store to the rear of the property to a self-contained residential flat.	Appeal dismissed and enforcement notice upheld	Partial for	Unreasonable behaviour resulting in unnecessary or wasted expense occurred in respect of the Council responding to some of the ground (a) appeal matters (namely outlook/privacy, NDSS, outside amenity space and SPA considerations), the ground (d) appeal (previous LDC appeal), and the ground (e) appeal (copies of notice not properly served). Paid £560 25/03/26.
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